

WASHINGTON, D. C. 20505

Office of Legislative Counsel

OGC Has Reviewed

DD/A Registry

Legal

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

We have received and reviewed the report of the Department of Justice, provided by your Office by letter dated 3 February 1978, commenting on this Agency's proposed legislation to clarify the authority of the Director of Central Intelligence to authorize personnel to carry firearms.

We are pleased to receive formal notification that the Department of Justice concurs in the need for this proposed legislation. The Department recommends adoption of a revised paragraph for our transmittal letter which we transmitted to the Department on 20 December 1977. We, of course, do not object to such modification and will be happy to provide revised transmittal letters from the Director as soon as your Office is prepared to forward the proposal package.

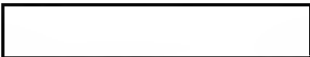
In addition, the Department of Justice suggests that subsection (d)(iii) of our proposal be amended to specify an additional limitation on the Director's authority to authorize firearms protection for certain Agency officials. We do not object to this amendment, provided the Deputy Director is mentioned specifically along with the Director for such protection. The Department of Justice indicates in its letter that it would not object to such further modification of the proposal. Taking these amendments into account, subsection (d) (iii) of the Agency's proposal would read:

" ; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director, such designations to be made only upon personal determination of the Director or Deputy Director that a specific stated exigency warrants such protective action and to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 90 days, whichever is sooner."

We continue to believe that timely enactment of this proposal is of significant importance to the Agency. Please advise as soon as it is appropriate for us to provide you clean copies of the revised material so as to present the proposal to the Congress.

Thank you for your help.

Sincerely,


Acting Legislative Counsel

STATINTL

OLC #78-545/c

The Speaker's Rooms
U.S. House of Representatives
Washington, D.C. 20515

May 18, 1978

Executive Registry
78-9069/2

Mr. Stansfield Turner, Director
Central Intelligence Agency
Washington, DC 20505

DD/A Registry
78-0686/3

DD/A Registry
File Security

Dear Mr. Turner:

This will acknowledge receipt of your letter of May 11, transmitting a draft bill to amend the Central Intelligence Agency Act of 1949, as amended, "To authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances."

Sincerely,

Thomas F. Onieif
The Speaker

The Director
Central Intelligence Agency

OLC 78-0545/C

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0



Washington, D.C. 20505

DD/A Registry

78-0686/2

11 MAY 1978

Honorable Walter F. Mondale
President of the Senate
Washington, D.C. 20510

DD/A Registry
File *Security*

Dear Mr. President:

This letter transmits for the consideration of the Congress a draft bill to amend the Central Intelligence Agency Act of 1949, as amended, "To authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances."

OGC
FOIAB5
In furtherance of the Central Intelligence Agency's foreign intelligence mission and in aid of the Director of Central Intelligence's statutory duty to protect intelligence sources and methods, the Agency's Office of Security is responsible for insuring proper security of Agency facilities, personnel and information. The Agency now faces a problem concerning delineation of the circumstances under which its security officers may carry firearms within the United States in performing these protective functions, which frequently involve the need to maintain the confidentiality of Agency involvement.

OGC
FOIAB5
[Redacted]
There are other circumstances where it is necessary for Agency personnel to carry firearms if intelligence facilities, personnel and information are to be adequately protected against physical threats. While the number of circumstances in which Agency personnel need authority to carry and use firearms, and which are not clearly covered by the present statutory authority, is not great, those that do exist are extremely important. For example, the CIA operates a small number of training and other facilities that, for reasons of security, cannot be openly identified with the CIA; without the security provided through the use of armed guards, these facilities could not be appropriately protected. Use of armed guards for such purposes is nowhere specifically prohibited by statute; nor does the legislative history on the proviso.

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OGC Therefore, we believe legislative clarification of the Agency's authority in this area is necessary to resolve issues relating to the scope of authority of Agency personnel who may be forced to use firearms, and thereby risk exposure to possible civil or criminal liability, or both.

The draft bill would permit the Director of Central Intelligence to authorize qualified Agency personnel to carry firearms in the United States only for four purposes. First, the Director may authorize personnel to carry firearms when safeguarding confidential documents or materials. This essentially corresponds with existing law, although the draft bill allows for the protection of documents and materials which are not in the process of being transported. Second, personnel may be authorized to carry firearms for the protection of Agency facilities, property, and mediums of exchange. This may be necessary, for example, to guard against the physical penetration of a sensitive Agency facility within the United States. Such authority also may be necessary, for example, to protect large amounts of cash intended for confidential operational purposes which therefore must be transported within the United States under secure cover procedures. Third, Agency personnel may be authorized to carry firearms to protect, in certain circumstances, Agency personnel, who are exposed to risks of physical harm, including among other things, terrorization, abduction or even assassination. Finally, personnel may be authorized to carry firearms to protect against physical threats to foreign individuals such as defectors and foreign persons visiting the United States under Agency auspices. This may be necessary to prevent the assassination, terrorization, or abduction of defectors or sensitive foreign guests. The draft bill also permits the use of firearms for authorized training purposes.

There are, of course, many precedents for authorizing designated personnel in non-law enforcement agencies to carry firearms for protective purposes associated with agency functions. Under 22 U.S.C. 2666, for example, the Secretary of State may authorize security officers to carry firearms for protecting distinguished visitors to the United States, the Secretary of State, and other persons. There are examples of even broader statutory authorities. Under 10 U.S.C. 1585, the Secretary of Defense may authorize civilian officers and employees of the Department of Defense to carry firearms or other weapons, while assigned investigative or other duties the Secretary may prescribe. 42 U.S.C. 2456 authorizes the Administrator of the National Aeronautics and Space Administration to "direct such of the officers and employees of the Administration if he deems necessary in the public interest to carry firearms while in the conduct of their official duties." 42 U.S.C. 2201 provides that the Atomic Energy Commission "is authorized to authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties." The circumstances under which the draft bill would permit Agency personnel to carry firearms are more narrowly defined than in some of these statutes.

We would appreciate early and favorable consideration of the proposed bill. The Office of Management and Budget has advised that there is no objection to presenting the proposed bill to the Congress from the standpoint of the Administration's program.

Yours sincerely,

/s/ Stansfield Turner
STANSFIELD TURNER

Enclosures

Distribution:

Orig - Addressee, w/encl
1 - DCI, w/encl
1 - DDCI, w/encl
1 - ER, w/encl
1 - SA/DO/O, w/encl
1 - DDA, w/encl
1 - Office of Security, w/encl
1 - OGC, w/encl
1 - IG, w/encl
1 - Compt, w/encl
1 - OLC Subject, w/encl
1 - OLC Chrono, w/o encl

OLC:RLB:sm (3 May 78)

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Washington, D.C. 20505

11 MAY 1978

Honorable Thomas P. O'Neill
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress a draft bill to amend the Central Intelligence Agency Act of 1949, as amended, "To authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances."

In furtherance of the Central Intelligence Agency's foreign intelligence mission and in aid of the Director of Central Intelligence's statutory duty to protect intelligence sources and methods, the Agency's Office of Security is responsible for insuring proper security of Agency facilities, personnel and information. The Agency now faces a problem concerning delineation of the circumstances under which its security officers may carry firearms within the United States in performing these protective functions, which frequently involve the need to maintain the confidentiality of Agency involvement.

[REDACTED]

There are other circumstances where it is necessary for Agency personnel to carry firearms if intelligence facilities, personnel and information are to be adequately protected against physical threats. While the number of circumstances in which Agency personnel need authority to carry and use firearms, and which are not clearly covered by the present statutory authority, is not great, those that do exist are extremely important. For example, the CIA operates a small number of training and other facilities that, for reasons of security, cannot be openly identified with the CIA; without the security provided through the use of armed guards, these facilities could not be appropriately protected. Use of armed guards for such purposes is nowhere specifically prohibited by statute; nor does the legislative history on the proviso.

[REDACTED]

Therefore, we believe legislative clarification of the Agency's authority in this area is necessary to resolve issues relating to the scope of authority of Agency personnel who may be forced to use firearms, and thereby risk exposure to possible civil or criminal liability, or both.

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We would appreciate early and favorable consideration of the proposed bill. The Office of Management and Budget has advised that there is no objection to presenting the proposed bill to the Congress from the standpoint of the Administration's program.

Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER

Enclosures

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1 - OLC Chrono, w/o encl
OLC:RLB:sm (3 May 78)

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

B:11

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

A BILL

To authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That Section 5(d) of the Central Intelligence Agency Act of 1949, as amended, (50 U.S.C. 403f(d)) is amended to read as follows:

"(d) Authorize, under such regulations as the Director shall prescribe, Agency personnel, while in the discharge of their official duties, to carry firearms; Provided, however: That within the United States, such official duties shall include only the protection of (i) information concerning intelligence sources and methods and classified intelligence documents and material; (ii) facilities, property, and any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action and to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner; and (iv) defectors and foreign persons visiting the United States under Agency auspices; and Provided further, That such duties shall include the transportation and utilization of firearms for authorized training;"

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

Sectional Analysis
and Explanation

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

SECTIONAL ANALYSIS AND EXPLANATION -

The draft bill would amend Section 5(d) of the Central Intelligence Agency Act of 1949, as amended, in furtherance of the Agency's foreign intelligence mission, and in order further to implement the duty of the Director of Central Intelligence, under the National Security Act of 1947, as amended, to protect intelligence sources and methods from unauthorized disclosure. Section 5(d) now provides that Agency "couriers and guards" are authorized to carry firearms "when engaged in transportation of confidential documents and materials." The draft bill would authorize, under such regulations as the Director of Central Intelligence prescribed, Agency personnel to carry firearms; within the United States, such authority would be limited to certain defined circumstances for the purpose of protecting intelligence information, personnel, facilities and operations. Agency personnel, designated by the Director of Central Intelligence and qualified for the use of firearms, would be authorized to carry firearms within the United States to protect (i) information concerning intelligence sources and methods and classified intelligence documents and material; (ii) facilities, property and any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action and to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner; and (iv) defectors and foreign persons visiting the United States under Agency auspices. In addition, the bill would allow Agency personnel to transport and utilize firearms for authorized training.

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Changes in
Existing Law

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CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in brackets; and new matter is underscored.

CENTRAL INTELLIGENCE AGENCY ACT OF 1949, As Amended (50 U.S.C.A. 403a-j)

* * * * *

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to--

* * * * *

(d) Authorize [couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;] , under such regulations as the Director shall prescribe, Agency personnel, while in the discharge of their official duties, to carry firearms; Provided, however: That within the United States, such official duties shall include only the protection of (i) information concerning intelligence sources and methods and classified intelligence documents and material; (ii) facilities, property and any medium of exchange owned or utilized by the Agency; (iii) the Director and the Deputy Director and other Agency personnel as may be designated by the Director, such designations to be made only upon determination of the Director or Deputy Director that a specific stated exigency warrants such protective action and to be terminated, unless sooner renewed in the same fashion, upon expiration of the exigency or as specified in the designation order or at the end of 120 days, whichever is sooner; and (iv) defectors and foreign persons visiting the United States under Agency auspices; and Provided further, That such duties shall include the transportation and utilization of firearms for authorized training;

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Cost Analysis

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

COST ANALYSIS

This legislation does not involve any measurable costs. No additional expenditures on firearms or on training are contemplated beyond existing levels.

DD/A Registry

File Security

OLC 78-0545/2

4 May 1978

MEMORANDUM FOR: Director of Central Intelligence

FROM:

[REDACTED]
Acting Legislative Counsel

SUBJECT: Proposed Firearms Legislation

1. (U) Action Requested: It is requested that you sign the attached letters to the Speaker of the House of Representatives and the President of the Senate transmitting our proposed firearms legislation. The proposal incorporates some changes suggested by the Office of Management and Budget and the Department of Justice, both of which have approved the proposal so modified.

2. (S) [REDACTED]

[REDACTED] For some time, the Office of General Counsel and the Office of Security have been concerned that the specific statutory authority is inadequate, particularly as regards our use of armed guards [REDACTED]. Fortunately, to date there have been no serious incidents involving use of firearms by Agency employees. The existing statutory authority, however, is ambiguous at best. This has become an inhibiting factor, because the authority under which an Agency officer may be authorized to carry a firearm is seen as uncertain; moreover, the present statutory authority could prove troublesome in any legal proceedings that could develop if there were a serious incident involving the use of firearms.

Because of these concerns we feel it is important to attempt to obtain statutory clarification of the Director's authority to authorize Agency employees to carry firearms within the United States. The charter legislation now before the Congress contains a firearms authority provision which, although in its present form is insufficient, could be used as a vehicle to obtain such congressional action. Enactment of the charter legislation is some time away, however, and the Office of General Counsel and the Office of Security strongly believe it is important to seek enactment of new firearms legislation as soon as possible.

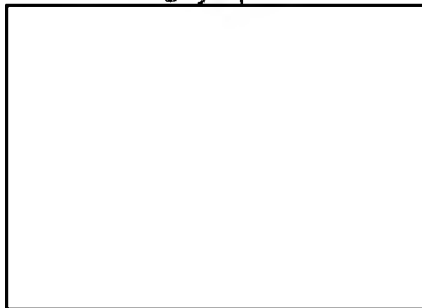
Both OMB and the Department of Justice proposed amendments to our proposal that have the effect of limiting the circumstances under which Agency employees could carry firearms. Although these proposed amendments are acceptable to us, and have been incorporated in the proposal, they do point out that there is potential for misunderstanding of our proposed legislation; it is reasonable to assume we will encounter some opposition in Congress. In other words, there are persons who are likely to view a proposal granting or extending an authority whereby non-law enforcement Government employees are authorized to carry firearms as an unwarranted expansion of Government authority and a danger to the public at large. There is always the danger, of course, that sentiments like these will find a particularly attractive target in the CIA. Nonetheless, we believe our proposed legislation extends no further than that authority we believe necessary to protect Agency information, facilities and employees from harm. There may also be members of Congress who will take the position that consideration of this matter should be considered only in the context of the charter legislation and would recommend that the matter be so deferred. We believe, however, that every effort should be made to obtain clarified statutory authority to carry firearms as soon as possible and that we should therefore move forward independent of the charter legislation. We have kept the staffs of our oversight committees informed of our interest in this matter, and they have been alerted that this proposal is going forward.

3. (U) Staff Position: The DDA, the Office of Security and the Office of General Counsel have been involved in this process and concur with this memorandum and with the need to forward this proposal to the Congress.

4. (U) Recommendation: It is recommended that you approve and sign the letters to the Speaker of the House and the President of the Senate transmitting our proposed firearms legislation.

25X1A

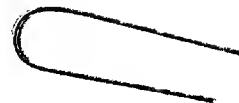
Attachments



APPROVED: _____
Director of Central Intelligence

DISAPPROVED: _____
Director of Central Intelligence

Date: _____



☐ UNCLASSIFIED ☐ INTERNAL ONLY ☐ CONFIDENTIAL ☐ SECRET

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

ROUTING AND RECORD SHEET

DDA 78-0686

SUBJECT: (Optional)

Guard Instructions on the Use of Firearms - ☐

25X1A

FROM:

EXTENSION

NO.

Robert W. Gambino
Director of Security

DATE

17 FEB 1978

25X1A

TO: (Officer designation, room number, and building)

DATE

COMMENTS (Number each comment and show from whom to whom. Draw a line across column after each comment.)

EO/DDA

2/21

RECEIVED

FORWARDED

DD/A Registry
File Security

STAT

STAT

1. Acting DDA
☐ Headquarters

2.

3. DDA

22 FEB 1978

4.

5. D/Security

6. att: ☐

7.

8.

9.

10.

DDA:JFBlake:kmg (22 Feb 78)

Distribution:

Orig RS - D/Sec w/atts

11.

☒ DDA Subj w/atts

1 - DDA Chrono

1 - JFB Chrono

12.

Atts: Memos dtd 17 Feb 78 to ☐ fr D/Sec,
subj: Guard Instructions on the Use of Firearms
(DDA 78-0686)

13.

14.

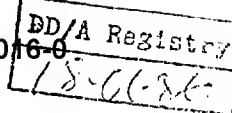
15.

25X1A

25X1A

Approved For Release 2003/03/06 : CIA-RDP81-00142R000200060016-0

FORM 3-62 610 USE PREVIOUS EDITIONS ☐ SECRET ☐ CONFIDENTIAL ☐ INTERNAL USE ONLY ☐ UNCLASSIFIED



17 FEB 1978

MEMORANDUM FOR: Chief, [REDACTED]
ATTENTION: Security Officer
VIA: General Counsel
FROM: Robert W. Gambino
Director of Security
SUBJECT: Guard Instructions on the Use of Firearms

STATINTL

1. Please find attached for your use and implementation instructions on the use of firearms by guards at [REDACTED]. The instructions were prepared by the Office of Security with the cooperation of the Office of General Counsel.

STATINTL

2. As you know, your inquiries to OGC relative to the authority of these employees to carry and use firearms has prompted an OGC effort to secure clear authority for this activity either via delegation from GSA or the enactment of new legislation. I will keep you advised of the results of that effort and what, if any, alterations need to be made to these instructions.

[REDACTED]
Robert W. Gambino

STAT

Att: a/s

CC: GC
A/DDA

OS 8-0434

GUARD INSTRUCTIONS ON THE USE OF FIREARMS

1. Guards who are qualified and authorized to carry firearms while on duty shall have the pistol fully loaded, carry the pistol only in the holster provided and carry no firearm other than the one provided for his use.

2. Aside from practice firing on the range, the pistol shall remain holstered and shall be fired only when it is necessary for the guard to protect himself or others from grievous bodily harm or death, when placed in great peril on U.S. Government property.

3. Firearms shall not be fired from or at a moving vehicle and shall not be fired when the lives of bystanders may be endangered. Firearms shall not be used to intimidate or threaten and shall not be used to fire warning shots.

4. In the event of either an accidental or intentional discharge of the firearm, the guard shall immediately notify his supervisor, who will impound both the ammunition and the pistol until an official investigation is completed.

I, _____, have read the above provisions and completely understand the responsibilities placed upon me in the use of firearms by virtue of my position as a guard.

DATE

SIGNATURE